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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/989,271

11/20/2001

Michael C. Smyk

FCI-2632/C3069

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7590

02/09/2005

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EXAMINER

HARVEY, JAMES R

ART UNIT

PAPER NUMBER

2833

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/989,271

Applicant(s)

SMYK, MICHAEL C.

Examiner

James R. Harvey

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 45-54

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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-- In response to applicant's argument (page 2, line 10) concerning that because the spring member is detachably mounted, it necessarily is attached when it is mounted is not convincing. The examiner is not convinced because the relevant claim language is non-fixedly secured and the reference teaches that the spring member 30 can be fixedly mounted (column 3, line 32) and the spring member 30 can also be detachably mounted (column 5, line 36) so that it can be easily removed from the terminal body (column 5, line 38).


Detachably is seen to anticipate the claimed word “non-fixedly” and mounted is seen to anticipate the claim word “secured” (see attached definition from The American Heritage Dictionary).

-- In response to applicant's argument (page 2, line 11) concerning applicant's assertion that there does not appear to be any distinction between attached and fixed, the examiner disagrees. The examiner disagrees because FP'850 is seen to disclose two distinct teachings. The first distinct teaching is that the spring member 30 can be fixed by a rivet or welding (column 5, lines 34 and 35). The second distinct teaching is that the spring member 30 can be detachably mounted through retaining and fitting connections (column 5, line 36).

-- In response to applicant's argument (page 2, line 15) concerning that FP'850 does not show attachment or coupling, the examiner is not convinced. The examiner is not convinced because applicant has not shown what part of the claims the recitation “attachment or coupling” is precisely claimed; the claim language defines applicant's invention and arguments based upon words that are not precisely claimed are considered moot.

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Further, FP'850 teaches that the spring member 30 can be detachably mounted through retaining and fitting connections (column 5, line 36). The retaining and fitting connections are seen to be equivalent to attachment or coupling.


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